THE HON'BLE SRI JUSTICE K.C. BHANU

W.P.No.1066 of 2004

DATE:03-08-2005

Between:

1 G.Lockus S/o late Sri Chinnappa

aged about 41 years, Occ:Record Assistant

in Andhra Loyola college at Vijayawada (Andhra Pradesh)

..... PETITIONER

AND

1 The State of A.P. rep by Prl. Secretary, Higher

Education Department, Secretariat, Hyderabad and others.

RESPONDENTS

THE HON'BLE SRI JUSTICE K.C. BHANU

W.P.No.1066 of 2004

ORDER:

This writ petition is filed seeking to declare the impugned proceedings in R.C.No.1361/Admn-VI-1/2001, dated 04-04-2003 issued by the second respondent as illegal and arbitrary and consequently to direct the respondents to promote the petitioner as Junior Assistant in the third respondent-institution.

The brief facts that are necessary for the disposal of the present writ petition may be stated as follows:

The petitioner is working as Record Assistant in
grant-in-aid post in the third respondent-institution after being promoted from Attender to Record Assistant on
03-04-1998. Initially, he was appointed as a contingent employee in the year 1982 and later his service had
been admitted into grant-in-aid employee with effect from 01-08-1984 in the third respondent-institution and further converted as Attender on 08-06-1993 and finally as Record Assistant. It is submitted that the second respondent accorded permission to the third respondent-institution in respect of filling up of two vacant posts of Junior Assistant by promoting suitable, eligible and qualified internal candidates by conducting Departmental Promotion Committee vide proceedings dated 17-07-

2001. Accordingly, through the Departmental Promotion Committee, the third respondent has selected the petitioner for the post of Junior Assistant vide proceedings, dated

22-10-2001, but the same has been rejected by the second respondent. It is further submitted that the third respondent sent another representation to the second respondent vide Ref.ALC/G.L/Promn./Jr.Asst./2002, dated 29-10-2002 to promote the petitioner as Junior Assistant in view of G.O.Ms.No.517 (G.A.D) dated 29-10-1987 and also the selection made by the duly constituted committee. In the meantime, the petitioner preferred a writ petition No.3597 of 2003 before this Court for a direction to the respondents therein to promote him as Junior Assistant in the third respondent-institution keeping in view of G.O.Ms.No.517, dated 29-10-1987. But, during the pendency of the writ petition, the second respondent once again rejected the proposal of the third respondent-institution for the promotion of the petitioner as Junior Assistant vide impugned proceedings in R.C.No.1361/Admn.VI-1/2001, dated 04-04-2003. Challenging the same, the present writ petition is filed.

A counter affidavit has been filed by the respondents stating that the petitioner was appointed as a contingent class-IV employee (Watchman) in Grant-in-aid post on

01-08-1984. Subsequently, he was converted as Attender with effect from 08-06-1993 and also promoted as Record Assistant with effect from 11-04-1998. The prescribed qualification for the post of Junior Assistant in aided Degree college is intermediate and five years of service in feeder cadre, whereas the petitioner possessed S.S.C. only and has not completed five years of service as on the date of meeting of Departmental Promotion Committee, and therefore, he is not eligible for promotion to the post of Junior Assistant as per G.O.Ms.No.517, dated 29-10-1987 and there are no grounds to interfere with the impugned proceedings.

The learned counsel appearing for the petitioner contended that though the petitioner is having requisite qualifications, he was not given promotion as Junior

Assistant and the rejection of his case, on the sole ground that he does not possess the requisite qualification
of Intermediate, is contrary to G.O.Ms.No.517, dated
29-10-1987, and therefore, he prays to set aside the same.

On the other hand, the learned Government Pleader appearing for respondents 1 and 2 contended that since the petitioner does not possess the minimum educational qualifications, he is not eligible for promotion as Junior Assistant, and therefore, there is no infirmity in the impugned proceedings.

The learned Standing counsel appearing for the third respondent submits that one vacancy is available in
the cadre of Junior Assistant in the third respondent-institution and it is for the respondents 1 and 2 to pass appropriate orders in effecting the promotions and, as a matter fact, the management had already recommended the case of the petitioner for promotion and hence, he prays to issue necessary instructions to the respondents 1 and 2.

The petitioner was initially appointed as a Watchman with effect from 01-08-1984 and the said post was admitted into grant in aid in the year 1981. Thereafter, the petitioner was promoted as an Attender with effect from 08-06-1983 and the further promotion as Record Assistant was given to him on 11-04-1998. Admittedly, the petitioner passed S.S.C. and typewriting English. The sole ground, on which the case of the petitioner is rejected, is that he does not possess intermediate qualification for the post of Junior Assistant.

As per G.O.Ms.No.517, dated 29-10-1987, which is the amendment of special rules for the Andhra pradesh Ministerial Service, the Record Assistants and members of equivalent categories in other services and member of Andhra Pradesh last Grade services and members of other services shall not be eligible for appointment by recruitment by transfer to the post of Junior Assistants, Typists and

Junior Stenographers in the sub-ordinate offices viz., offices other than the heads of Departments and directorates unless they possess the qualification of pass in intermediate examination and the other qualifications prescribed and
put in not less than five years of regular service in
such categories. Provided that those appointed prior to
29-10-1987 may be considered for appointment by recruitment by transfer to the posts mentioned above, if they possess minimum general educational qualification and put in not less than five years of regular service.

The amendment to Rule 22 further goes to show that provided that those who were already appointed in the offices of the heads of departments and directorates prior to 15th December, 1984 and those appointed in the offices other than heads of departments and directorates prior to 29-10-1987 shall be eligible for appointment as Junior Assistants etc., if they have passed S.S.C. or any equivalent examination.

So, the above provision makes it clear that if a person
is appointed prior to 29-10-1987, the pass in S.S.C. is sufficient for promotion to the post of Junior Assistant. Admittedly, the petitioner was appointed prior to
29-10-1987 in the office other than the heads of the departments and directorates. Even the G.O.Ms.No.261, dated 14-07-1998, issued by the Government, goes to show that those who were appointed in the offices other than the heads of Departments and Directorates prior to
29-10-1987 shall be eligible for appointment as Junior assistant etc., if they passed S.S.C. or any equivalent examination.

Admittedly, in this case, the petitioner passed S.S.C. Therefore, the rejection of his case, on the ground that he does not possess the intermediate qualification, is contrary to the rules, and hence, the impugned proceedings are liable to be set aside.

Therefore, the impugned proceedings are set aside and the second respondent is directed to pass appropriate orders on the recommendations of the third respondent-Secretary and Correspondent, A.L.College, Vijayawada, dated 29-10-2002, within a period of six weeks from the date of receipt of a copy of this order.

The writ petition is accordingly allowed. No costs.

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K.C.BHANU, J

Dated August 03, 2005.

YCR

Rule nisi is made absolute as above.

Witness the Hon'be Sri Bilal Nazki, the Acting Chief Justice on this

Wednesday, the third day of August Two thousand and five.